

**WSR 15-07-009**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 15-37—Filed March 6, 2015, 3:23 p.m., effective March 8, 2015,  
8:00 a.m.]

Effective Date of Rule: March 8, 2015, 8:00 a.m.

Purpose: Amend Puget Sound commercial crab fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000V, 220-52-04000A and 220-52-04600H; and amending WAC 220-52-040 and 220-52-046.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule continues the closure of the commercial crab harvest in Region 2 East of Puget Sound as the commercial allotment in Region 2 East has been reached. This emergency rule closes the commercial crab fishery in Region 3-2. The state will have reached the allocation in Region 3-2 on the date specified in the rule. This emergency rule reopens the commercial crab fishery in Region 2 West. The state has agreed to "fish to equity" in Region 2 West in order to reach a 50/50 share of the allocation. These provisions are in conformity with agreed management plans with applicable tribes, entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 6, 2015.

J. W. Unsworth  
Director

NEW SECTION

**WAC 220-52-04000B Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts.** (1) Notwithstanding the provisions of WAC 220-52-040, effective 8:00 a.m. March 8, 2015, until further notice:

(a) It is unlawful for any person to fish for crabs for commercial purposes with more than 30 pots per license per buoy tag number in Crab Management Region 1. This region includes Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A and 22B.

(b) It is unlawful for any person to fish for crabs for commercial purposes with more than 30 pots per license per buoy tag number in Crab Management Region 2 West. This region includes Marine Fish-Shellfish Management and Catch Reporting Areas 25B, 25D and 26A West.

(c) The remaining buoy tags per license per region over the pot limits for the area fished must be onboard the designated vessel and available for inspection upon request.

(2) Notwithstanding the provisions of WAC 220-52-040, WAC 220-52-043 and WAC 220-52-046, effective immediately, until further notice: It is unlawful to retain any salmon, food fish, or shellfish, except octopus and Tanner crabs (*Chionoecetes spp.*), taken incidental to any commercial crab fishing.

(a) Tanner crabs may only be retained in Crab Region 1 (defined as all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, and 22B) and Crab Region 3-1 (defined as all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A and 23B).

(b) It is unlawful to retain Tanner crabs other than males with a minimum width of 4.5 inches across the widest point in the carapace.

NEW SECTION

**WAC 220-52-04600I Puget Sound crab fishery—Seasons and areas.** Notwithstanding the provisions of WAC 220-52-046:

(1) Effective 8:00 a.m. March 8, 2015, until further notice, it is permissible to fish for Dungeness crab for commercial purposes in the following areas:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A between a line from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance of the Birch Bay Marina and a line from the same boat ramp to Birch Point.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Fidalgo Bay south of a line projected from the red number 4 entrance buoy at Cape Sante Marina to the northern end of the eastern most oil dock.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Deer Harbor north of a line projected from Steep Point to Pole Pass.

(2) Effective immediately, until further notice, the following areas are closed to commercial crab fishing:

(a) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of the 123°7.0' longitude line projected from the new Dungeness light due south to the shore of Dungeness Bay.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 23D west of a line from the eastern tip of Ediz Hook to the ITT Rayonier Dock.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A east of a line projected true north from the most westerly tip of Skagit Island and extending south to the most westerly tip of Hope Island, thence southeast to Seal Rocks, thence southeast to the green can buoy at the mouth of Swinomish Channel, thence easterly to the west side of Goat Island.

(d) All of Crab Management Region 2 East. Region 2 East includes Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D and 26A East.

(3) Effective 6:30 p.m. March 8, 2015, Crab Management Region 3-2 is closed. Region 3-2 includes all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23D, 25A and 25E.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### REPEALER

The following sections of the Washington Administrative code are repealed effective 8:00 a.m. March 8, 2015:

- WAC 220-52-04000V Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts (14-350)
- WAC 220-52-04000A Commercial crab fishery—Unlawful acts (15-15)
- WAC 220-52-04600H Puget Sound crab fishery—Seasons and areas (14-350)

**WSR 15-07-010**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 15-38—Filed March 6, 2015, 4:50 p.m., effective March 10, 2015, 12:01 a.m.]

Effective Date of Rule: March 10, 2015, 12:01 a.m.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-310-190.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Water levels in the lake have been drawn down and fish are concentrated in small pools. Leaving the lake open will be detrimental to the fish communities in these small pools. The lake is being closed to prevent excessive harvest of the fish in the lake and to improve the

quality of the fishery after the lake refills. The lake will reopen once lake levels are sufficient to sustain a fishery. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 6, 2015.

J. W. Unsworth  
Director

#### NEW SECTION

**WAC 220-310-19000Q Freshwater exceptions to statewide rules—Puget Sound.** Notwithstanding the provisions of WAC 220-310-190, 12:01 a.m. March 10, 2015, until further notice, it is unlawful to fish in the waters of Lake Tapps (Pierce Co.).

**WSR 15-07-019**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 15-39—Filed March 9, 2015, 3:49 p.m., effective March 10, 2015, 6:30 p.m.]

Effective Date of Rule: March 10, 2015, 6:30 p.m.

Purpose: Amend Puget Sound commercial crab fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000B and 220-52-04600I; and amending WAC 220-52-040 and 220-52-046.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule continues the closure of the commercial crab harvest in Region 2 East of Puget Sound as the commercial allotment in Region 2 East has been reached. This emergency rule continues the closure of the commercial crab fishery in Region 3-2. The state has reached the full allocation in Region 2 East and Region 3-2.

This emergency rule closes the commercial crab fishery in Region 2 West. The state will reach the "fish to equity" goal and obtained a 50/50 share of the allocation on the date specified in this rule. These provisions are in conformity with agreed management plans with applicable tribes, entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 9, 2015.

Joe Stohr  
for J. W. Unsworth  
Director

#### NEW SECTION

**WAC 220-52-04000C Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts.** (1) Notwithstanding the provisions of WAC 220-52-040, effective 6:30 p.m. March 10, 2015, until further notice:

(a) It is unlawful for any person to fish for crabs for commercial purposes with more than 30 pots per license per buoy tag number in Crab Management Region 1. This region includes Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A and 22B.

(b) The remaining buoy tags per license per region over the pot limits for the area fished must be onboard the designated vessel and available for inspection upon request.

(2) Notwithstanding the provisions of WAC 220-52-040, WAC 220-52-043 and WAC 220-52-046, effective immediately, until further notice: It is unlawful to retain any salmon, food fish, or shellfish, except octopus and Tanner crabs (*Chionoecetes spp.*), taken incidental to any commercial crab fishing.

(a) Tanner crabs may only be retained in Crab Region 1 (defined as all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, and 22B) and Crab Region 3-1 (defined as all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A and 23B.)

(b) It is unlawful to retain Tanner crabs other than males with a minimum width of 4.5 inches across the widest point in the carapace.

#### NEW SECTION

**WAC 220-52-04600J Puget Sound crab fishery—Seasons and areas.** Notwithstanding the provisions of WAC 220-52-046:

(1) Effective immediately, until further notice, it is permissible to fish for Dungeness crab for commercial purposes in the following areas:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A between a line from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance of the Birch Bay Marina and a line from the same boat ramp to Birch Point.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Fidalgo Bay south of a line projected from the red number 4 entrance buoy at Cape Sante Marina to the northern end of the eastern most oil dock.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Deer Harbor north of a line projected from Steep Point to Pole Pass.

(2) Effective 6:30 p.m., March 10, 2015, Crab Management Region 2 West is closed. Region 2 west includes all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 25B, 25D and 26A West.

(3) Effective immediately, until further notice, the following areas are closed to commercial crab fishing:

(a) All of Crab Management Region 2 East. Region 2 East includes all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D and 26A East.

(b) All of Crab Management Region 3-2. Region 3-2 includes all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23D, 25A and 25E.

#### REPEALER

The following sections of the Washington Administrative Code are repealed effective 6:30 p.m. March 10, 2015:

WAC 220-52-04000B Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts (15-37)

WAC 220-52-04600I Puget Sound crab fishery—Seasons and areas (15-37)

#### **WSR 15-07-038**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF**

#### **FISH AND WILDLIFE**

[Order 15-41—Filed March 11, 2015, 3:06 p.m., effective March 12, 2015, 6:01 p.m.]

Effective Date of Rule: March 12, 2015, 6:01 p.m.

Purpose: The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act (ESA). This rule making implements federal court orders governing Washington's

relationship with treaty Indian tribes and federal law governing Washington's relationship with Oregon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100U and 220-32-05100V; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River compact).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Prohibits the sales of salmon in the ongoing fishery in Bonneville Pool. The tribes are preparing for the annual longhouse feasts, and salmon are needed for ceremonial purposes. The rule continues to have all standard dam and river mouth sanctuaries in effect and apply to all species. This rule continues to allow commercial sales from the treaty winter fishery to Washington wholesale buyers and the public. Harvestable sturgeon remain available under the current harvest guidelines for Bonneville Pool. The season is consistent with the 2008-2017 management agreement and the associated biological opinion. Rule is consistent with action of the Columbia River compact on February 19 and March 10, 2015. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2008-2017 *U.S. v. Oregon* Management Agreement.

Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and

invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 2; Federal Rules or Standards: New 1, Amended 0, Repealed 2; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 11, 2015.

J. W. Unsworth  
Director

#### NEW SECTION

**WAC 220-32-05100V Columbia River salmon seasons above Bonneville Dam.** Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052 and WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H. However, those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions:

- (1) Season: Immediately through 6:00 p.m. March 21, 2015.
- (2) Area: SMCRA 1F (Bonneville Pool).
- (3) Sanctuaries: Standard river mouth and dam sanctuaries are in effect, and apply to all species.
- (4) Gear: Gill nets, hoop nets, dip bag nets, and rod and reel with hook and line. No mesh restriction on gillnets.
- (5) Allowable Sales: Steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 38-54 inches in fork length may be sold or kept for subsistence. Live release of all oversize and under-size sturgeon is required. Fish caught during the open period may be sold after the period concludes. Salmon may only be kept for ceremonial and subsistence purposes.
- (6) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-69-240, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. March 12, 2015:

WAC 220-32-05100U Columbia River salmon seasons above Bonneville Dam. (15-36)

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. March 21, 2015:

WAC 220-32-05100V Columbia River salmon seasons above Bonneville Dam.

**WSR 15-07-039****EMERGENCY RULES****DEPARTMENT OF****FISH AND WILDLIFE**

[Order 15-40—Filed March 11, 2015, 4:31 p.m., effective March 16, 2015, 12:01 p.m.]

Effective Date of Rule: March 16, 2015, 12:01 p.m.

Purpose: Amend recreational fishing rules for razor clams.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000A; and amending WAC 220-56-360.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Survey results show that adequate razor clams are available for recreational harvest in Razor Clam Areas 1, 3, 4 and 5. Washington department of health has certified clams from these beaches are safe for human consumption. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 11, 2015.

J. W. Unsworth  
Director

NEW SECTION

**WAC 220-56-36000A Razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 3, 4, or 5, except as provided for in this section:

(1) Effective 12:01 p.m. March 16, 2015 through 11:59 p.m. March 20, 2015, razor clam digging is permissible in Razor Clam Area 1. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(2) Effective 12:01 a.m. March 21, 2015 through 11:59 a.m. March 24, 2015, razor clam digging is permissible in Razor Clam Area 1. Digging is permissible from 12:01 a.m. to 11:59 a.m. each day only.

(3) Effective 12:01 p.m. March 16, 2015 through 11:59 p.m. March 20, 2015, razor clam digging is permissible in Razor Clam Area 3. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(4) Effective 12:01 a.m. March 21, 2015 through 11:59 a.m. March 24, 2015, razor clam digging is permissible in Razor Clam Area 3. Digging is permissible from 12:01 a.m. to 11:59 a.m. each day only.

(5) Effective 12:01 p.m. March 20, 2015 through 11:59 p.m. March 20, 2015, razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(6) Effective 12:01 a.m. March 21, 2015 through 11:59 a.m. March 22, 2015, razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 a.m. to 11:59 a.m. each day only.

(7) Effective 12:01 p.m. March 20, 2015 through 11:59 p.m. March 20, 2015, razor clam digging is permissible in Razor Clam Area 5. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(8) Effective 12:01 a.m. March 21, 2015 through 11:59 a.m. March 22, 2015, razor clam digging is permissible in Razor Clam Area 5. Digging is permissible from 12:01 a.m. to 11:59 a.m. each day only.

(9) It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. March 24, 2015:

WAC 220-56-36000A Razor clams—Areas and seasons.

**WSR 15-07-075**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 15-43—Filed March 17, 2015, 9:17 a.m., effective March 19, 2015, 7:00 p.m.]

Effective Date of Rule: March 19, 2015, 7:00 p.m.

Purpose: Amend Puget Sound commercial crab fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000C and 220-52-04600J; and amending WAC 220-52-040 and 220-52-046.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule closes the commercial crab fishery in Region 1. The state will reach the full allocation on the date specified in this rule. This emergency rule continues the closure of the commercial crab harvest in Region 2 West of Puget Sound. This emergency rule continues the closure of the commercial crab harvest in Region 2 East of Puget Sound. This emergency rule continues the closure of the commercial crab fishery in Region 3-2. The state has reached the full allocation in Region 2 East, Region 2 West and Region 3-2. This emergency rule closes the commercial crab fishery in Region 2 West. The state commercial crab fishery will continue in Region[s] 3-1 and 3-3 as sufficient allocation remains. These provisions are in conformity with agreed management plans with applicable tribes, entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 17, 2015.

J. W. Unsworth  
 Director

NEW SECTION

**WAC 220-52-04000D Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts.** Notwithstanding the provisions of WAC 220-52-040, WAC 220-52-043 and WAC 220-52-046, effective 7:00 p.m., March 19, 2015, until further notice, it is unlawful to retain any salmon, food fish, or shellfish, except octopus and Tanner crabs (*Chionoecetes spp.*), taken incidental to any commercial crab fishing.

(a) Tanner crabs may only be retained in Crab Region 3-1 (defined as all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A and 23B).

(b) It is unlawful to retain Tanner crabs other than males with a minimum width of 4.5 inches across the widest point in the carapace.

NEW SECTION

**WAC 220-52-04600K Puget Sound crab fishery—Seasons and areas.** Notwithstanding the provisions of WAC 220-52-046:

(1) Effective 7:00 p.m., March 19, 2015, Crab Management Region 1 is closed. Region 1 includes all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A and 22B.

(2) Effective immediately, until further notice, the following areas are closed to commercial crab fishing:

(a) All of Crab Management Region 2 West. Region 2 West includes all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 25B, 25D and 26A West.

(b) All of Crab Management Region 2 East. Region 2 East includes all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D and 26A East.

(c) All of Crab Management Region 3-2. Region 3-2 includes all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23D, 25A and 25E.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 7:00 p.m. March 19, 2015:

WAC 220-52-04000C Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts (15-39)

WAC 220-52-04600J Puget Sound crab fishery—Seasons and areas (15-39)

**WSR 15-07-094**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 15-44—Filed March 17, 2015, 2:44 p.m., effective March 17, 2015, 2:44 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules to allow for harvest of sea cucumbers.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable surpluses of sea cucumbers exist in Sea Cucumber District 1 to allow for commercial harvest seven days-per-week. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 17, 2015.

Joe Stohr  
for J. W. Unsworth  
Director

## NEW SECTION

**WAC 220-52-071001 Sea cucumbers** Notwithstanding the provisions of WAC 220-52-071, effective immediately, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 1 seven days-per-week.

(2) The maximum cumulative landing of sea cucumbers for each weekly fishery opening period is 2,000 pounds per valid designated sea cucumber harvest license. It is permissible for all or any fraction of the maximum 2,000 pound total to be harvested during any legal harvest date within any legal harvest area so long as the cumulative total for the fishery week does not exceed the maximum.

## WSR 15-07-102

### EMERGENCY RULES

### DEPARTMENT OF AGRICULTURE

[Filed March 18, 2015, 9:32 a.m., effective March 18, 2015, 9:32 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: A review of Washington state department of agriculture's grain inspection program fund 128 shows the balance is growing faster than anticipated and is larger than is necessary to ensure the program has sufficient funds to operate effectively due to higher than expected export tonnage volumes. WAC 16-240-043 Minimum operating fund discount does not allow for a review of the fund balance and a credit to customers for any excess in the fund until January 1, 2016. Given this circumstance and to provide an equitable remedy for those customers whose fees contributed to the excess fund balance, the department is refunding the excess operating amount immediately as soon as practical proportionately to customers who paid into the fund from the enactment of the last fee schedule on November 17, 2012, through December 31, 2014. The excess balance amount is determined as of January 31, 2015, the date for which the department has the most complete current figures. The department will review the fund balance again within the one hundred twenty days covered by this emergency rule.

All other requirements and provisions within chapter 16-240 WAC will remain in effect. The department is pursuing permanent rule making for a long-range solution to address maintaining an adequate fund balance while not gaining an unnecessarily high balance that can occur because of variable workload volumes.

Statutory Authority for Adoption: RCW 22.09.020, 22.09.070, chapter 34.05 RCW.

Other Authority: The United States Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Federal Grain Inspection Service (USDA GIPSA FGIS) must approve changes in the Washington state department of agriculture, grain inspection program's fee schedule. 7 C.F.R. § 800.70; Directive 9100.7, Fees for Official Agency Services.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Rule changes that affected fees in November 2012 have had some unintended consequences due to variable workload volumes, causing the program fund to grow beyond the desired level necessary to operate the program effectively. The fee discount rule, WAC 16-240-043, is not available to begin reducing the excess balance until 2016.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 18, 2015.

Kirk Robinson  
Acting Deputy Director

#### NEW SECTION

**WAC 16-240-056 Minimum operating fund balance refund.** (1) After July 1, 2014, the grain inspection program minimum operating fund has grown to exceed the balance necessary to cover the intended six months of program operating expenses. Because the significant excess balance has occurred after July 1, 2014, the discount adjustment under WAC 16-240-043 is not available until January 1, 2016 at the earliest. In order to promptly reduce the minimum operating fund balance to the required level, a refund is provided under this section to qualified customers.

(2) "Qualified customer" as used in this section refers to any applicant who has received and paid fees for grain inspection services from November 17, 2012 to December 31, 2014.

(3) Every qualified customer will be entitled to a one-time fee refund. Each refund is determined by calculating the total fees the program received from November 17, 2012 to December 31, 2014, each qualified customer's percent of that total, and the product derived by multiplying the excess minimum operating fund balance as of January 31, 2015 by each qualified customer's percent of the total fees paid by all customers from November 17, 2012 to December 31, 2014. The refunds will be processed following the effective date of this rule in compliance with state laws for the issuance of warrants.